IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 6046 of 2005

Between:

M. Subba Rao, S/o. Late Venkata Subbaiah,
Shop No.19, Markapur Town, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Prakasam District.
2 The Revenue Divisional Officer, Markapur, Prakasam District.
3 The Mandal Revenue Officer, Markapur Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the proceedings of the Revenue Divisional Officer, Markapur, Prakasam District, dated 9-11-2004, as confirmed by the appellate authority, the Joint Collector, Prakasam, by proceedings dated 10-3-2005, as being arbitrary, illegal, unreasonable and unconstitutional apart from violative of principles of natural justice and consequently set aside the same and pass such further or other orders as deem fit and proper.

Counsel for the Petitioner:MR.P.ROY REDDY

Counsel for the Respondent No.: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following :

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ORDER:.

Heard both sides and at their request this Writ Petition is taken up for disposal at the stage of admission.

In this Writ Petition, the petitioner is seeking a writ of Mandamus declaring the proceedings of the Revenue Divisional Officer, Markapur, Prakasam District dated 9.11.2004, as confirmed by the appellate authority, the Joint Collector, Prakasam, by proceedings dated 10.3.2005, as arbitrary and illegal.

The grievance of the petitioner is that his authorization was cancelled by the Revenue Divisional Officer, Markapur, Prakasam District, illegally, basing on the report of the Mandal Revenue Officer, Markapur. He preferred an appeal before the Joint Collector, Prakasam, and the Joint Collector, in turn, remitted the matter back to the Revenue Divisional Officer for fresh consideration. The primary authority, again having considered the matter afresh, as directed by the appellate authority, passed the same order cancelling the authorization basing on the evidence of 30 cardholders that certain irregularities have been committed by the petitioner.

From the above, it appears that the affidavits and counter affidavits of the same cardholders, who gave affidavits earlier have been placed before the Joint Collector, Prakasam District. Therefore, the appellate authority ought to have considered those facts and other material and arrived at a conclusion independently with reasons.

A perusal of the impugned proceedings would show that the appellate authority simply relied on the report submitted by the primary authority and confirmed

the order of cancellation.

Having regard to the facts and circumstances of the case, the order dated 10.3.2005 passed by the first respondent Joint collector, Prakasam District, Ongole is set aside. The appeal is remitted back to the first respondent for disposal afresh on merits by recording reasons after taking into consideration the material relied on by the petitioner uninfluenced by the report of the Revenue Divisional Officer or his own findings recorded earlier, as expeditiously as possible.

Accordingly, the Writ Petition is disposed of. No costs.

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D.S.R. VARMA, J

DATED: 28.03.2005

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To

1 The Joint Collector, Prakasam District.
2 The Revenue Divisional Officer, Markapur, Prakasam District.
3 The Mandal Revenue Officer, Markapur Mandal, Prakasam District.

4. Two CCs to G.P. for Civil Supplies, High Court of A.P. Hyderabad (OUT)

5. Two CD copies.